

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

MISC.CIVIL APPLICATION No 2428 of 1997

in

SPECIAL CIVIL APPLICATION No 6833 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE and
MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed
to see the judgements?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy
of the judgement?

4. Whether this case involves a substantial question
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?
(No. 1 to 5 NO)

EXCEL INDUSTRIES LTD

Versus

RAGHUBHAI OGHABHAI GAMARA

Appearance:

MR MANISH R BHATT for Petitioner

MR TR MISHRA for Respondent No. 1

CORAM : MR.JUSTICE S.D.DAVE and
MR.JUSTICE J.R.VORA

Date of decision: 18/12/98

ORAL JUDGEMENT

We have heard Ld. counsel Mr. M.R. Bhatt for

the petitioner and Ld. counsel Mr. T.R. Mishra for the opponent. The opponent happens to be the employee of the petitioner. Of course once upon a time his services came to be terminated, but we are being notified that the said orders of termination have been withdrawn.

The concentration should be on the orders pronounced by Ld. Single Judge on October 09, 1997 in Spl.C.A. No. 6833 of 1997. These orders would go to show that the main complaint is pending before the Industrial Tribunal. It was expected that the said Tribunal will proceed to decide the matter on its own, after hearing both the parties. The respondent had said that he would join his duties at Dhank on Monday 13th October 1997. The grievance made by the petitioner management is that, despite the above said orders the respondent has not joined at Dhank on that stipulated day. It is not in dispute that certain disciplinary proceedings were pending against the respondent and therefore with effect from July 04, 1998, his services came to be terminated. That orders of termination have been withdrawn with effect from October 15, 1997.

Ld. counsel Mr. Shaikh who appears for Ld. counsel Mr. Mishra for the respondent makes it clear that, because of his personal difficulties the respondent at present is not inclined to join the duties even after the withdrawal of the orders of termination.

In this fact situation, and especially taking notice of the fact that ultimately the services of the respondent came to be terminated with effect from July 04, 1998, we are of the opinion that present proceedings require to be disposed of.

Before proceeding to say for the disposal of the present proceedings, the contention coming from Ld. counsel Mr. Bhatt requires to be appreciated. Ld. counsel urges that the respondent workman is guilty of the disobedience of the orders of this Court and therefore even if he is not inclined to resume his duties after the withdrawal of the orders of termination, appropriate penalty should be imposed upon him. We are of the opinion that, any such action would not be justifiable in the facts and circumstances of the case.

We, therefore, order the disposal of these proceedings. Rule shall stand discharged. No costs.

/vgn.